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Dated: 3/6/06

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(Diane Blevins)

Docket No.: 532212000623  
(PATENT)

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Patent Application of:  
Thomas L. CANTOR

Application No.: 10/617,489

Confirmation No.: 4476

Filed: July 10, 2003

Art Unit: 1641

For: METHODS, KITS AND ANTIBODIES FOR  
DETECTING PARATHYROID HORMONE

Examiner: J. Cheu

**DECLARATION OF THOMAS L. CANTOR  
PURSUANT TO 37 C.F.R § 1.132**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Dear Sir:

I, Thomas L. Cantor, in my individual capacity, hereby declare as follows:

1. I am the inventor of the above-referenced patent application, and am familiar with the contents thereof.

2. This application is a continuation-in-part (CIP) of serial number 09/344,639, filed on June 26, 1999, and now issued as U.S. Patent No. 6,743,590, which is a CIP of serial number 09/231,422 (the '422 application), filed on January 14, 1999, now issued as U.S. Patent No. 6,689,566 (the '566 patent).

3. Figure 5 of the '422 application mentions a tracer antibody that is referred to as "PTH 1-8 Antibody as Tracer." The term "PTH 1-8 antibody" was used to refer to this antibody

because I then believed the antibody had been isolated by Dr. Ping Gao and his co-workers using a PTH 1-8 peptide for affinity purification of the antibody. When Figure 5 was created and when the '422 application was filed, I believed that such a tracer antibody was used for the experiment represented by Figure 5.

4. In a deposition which occurred on August 27, 2003, related to the case Nichols v. Scantibodies on Nichols's U.S. patent No. 6,030,790, the attorney questioning me said, "Well, isn't it true that 1-9 meant that you used a 1-9 peptide to affinity purify your antibody?" In response, I stated: "I believe Dr. Gao used a peptide that contained 1-9."

5. In connection with the case Scantibodies v. Immunotopics on Scantibodies' 566 patent, I became aware that the peptide in question was purchased from a supplier, as was the normal practice at Scantibodies: such peptides are typically purchased, rather than made. I also saw the invoice for the particular peptide used for affinity purification of the antibody that was used to generate the data represented by Figure 5 of the patent application serial number 09/231,422, which was filed on January 14, 1999. The invoice states that the peptide purchased for that purpose was a peptide containing PTH 1-9.

6. Based on the above facts, I believe that the antibody used to generate the results described in Figure 5 of serial number 09/231,422 should have been referred to as a PTH 1-9 antibody. In the current application, Figure 5, which was retained from the earlier '422 application, still refers to the antibody as "PTH 1-8 Antibody." Accordingly, I believe Figure 5 of the current application should be corrected to refer to the antibody as "PTH 1-9 Antibody."

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States

Code, and that such willful false statements may jeopardize the validity of the application, any patent issuing thereon, or any patent to which this verified statement is directed.

March 6, 2006

Date



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Thomas L. Cantor



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